

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN FRANCIS LEIN,)
Plaintiff,) No. CV-09-260-JPH
v.) ORDER GRANTING STIPULATED
MICHAEL J. ASTRUE,) MOTION TO REMAND
Commissioner of Social) (Ct. Rec. 10)
Security,)
Defendant.)

The parties have filed a stipulated motion for remand of this case to the Commissioner for further administrative proceedings (Ct. Rec. 10). The parties have filed a consent to proceed before a magistrate judge (Ct. Rec. 4).

After considering the stipulated motion, **IT IS ORDERED** that the motion is **GRANTED**. The above-captioned case is reversed and remanded for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g), as incorporated through 42 U.S.C. § 1383(c)(3), including further development of the record, a de novo hearing and the following:

On remand, the ALJ will (1) give plaintiff an opportunity for hearing; (2) consider any additional evidence presented by plaintiff, including any proffered witness testimony; (3) reassess plaintiff's RFC and (4) obtain supplemental vocational expert testimony to assist in determining whether plaintiff's impairments

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1 affect his ability to perform work-related activities at steps
2 four and five of the sequential evaluation.

3 In addition, plaintiff filed a subsequent claim for benefits on
4 July 7, 2009. The ALJ will associate the claim files and issue a
5 new decision on the consolidated claims.

6 Because this remand is pursuant to sentence four of 42 U.S.C.
7 § 405(g) with a remand of the cause to the Commissioner for
8 further proceedings (*See, Melkonyan v. Sullivan*, 501 U.S. 89
9 (1991)), plaintiff is entitled to reasonable attorney's fees and
10 costs pursuant to 28 U.S.C § 2412(a),(d), upon proper request to
11 this Court.

12 Accordingly, this court **reverses** the Commissioner's decision.

13 **IT IS FURTHER ORDERED:**

14 1. The parties' stipulated motion for an order of remand
15 (**Ct. Rec. 10**) is **GRANTED**.

16 2. Judgment shall be entered for the **PLAINTIFF**.

17 3. An application for attorney fees and costs may be
18 filed by separate motion.

19 4. The District Court Executive is directed to enter
20 this Order, forward copies to counsel, and **close** this file.

21 **DATED** this 23rd day of November, 2009.

23 _____
24 *s/James P. Hutton*
JAMES P. HUTTON
UNITED STATES MAGISTRATE JUDGE